

AMENDED IN SENATE JUNE 23, 1999
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1379

Introduced by Assembly Member Granlund

February 26, 1999

An act to amend Section 7735 of, *and to repeal Sections 7622.3 and 7651 of*, the Business and Professions Code, relating to ~~preneed—funeral—arrangements~~ *funeral directors and embalmers*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1379, as amended, Granlund. ~~Preneed—funeral arrangements: use of trust corpus~~ *Funeral directors and embalmers*.

Existing law requires the Funeral Directors and Embalmers Program to adopt regulations requiring continuing education for funeral directors and embalmers.

This bill would delete the requirement to adopt these continuing education regulations.

Existing provisions of the Funeral Directors and Embalmers Law require the holding in trust of money or securities furnished under a preneed funeral contract. None of the trust corpus may be used for payment of any commission or other expenses of trust administration.

This bill would authorize a trustee to pay taxes on the earnings of any such trust, as specified. Additionally, it would

prohibit any of the trust corpus being used for *the* payment of taxes on the earnings of the trust.

Since a violation of the Funeral Directors and Embalmers Law with respect to preneed funeral arrangements is a crime punishable as a felony or a misdemeanor, this bill would expand the scope of an existing crime and would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 7622.3 of the Business and*
2 *Professions Code is repealed.*

3 ~~7622.3. The program shall adopt regulations requiring~~
4 ~~continuing education of 14 hours every two years for~~
5 ~~licensed funeral directors. As a condition of renewal,~~
6 ~~every funeral director shall certify to the program that he~~
7 ~~or she has successfully completed 14 hours of continuing~~
8 ~~education on or before December 31, 2000, and shall~~
9 ~~certify to the program that he or she has successfully~~
10 ~~completed 14 hours of continuing education on or after~~
11 ~~December 31 of every even-numbered year thereafter.~~

12 SEC. 2. *Section 7651 of the Business and Professions*
13 *Code is repealed.*

14 ~~7651. The program shall adopt regulations requiring~~
15 ~~continuing education of 14 hours every two years for~~
16 ~~licensed embalmers. As a condition of renewal, every~~
17 ~~embalmer shall certify to the program that he or she has~~
18 ~~successfully completed 14 hours of continuing education~~
19 ~~on or before December 31, 2000, and shall certify to the~~
20 ~~program that he or she has successfully completed 14~~
21 ~~hours of continuing education on or after December 31~~
22 ~~of every even-numbered year thereafter.~~

1 SEC. 3. Section 7735 of the Business and Professions
2 Code is amended to read:

3 7735. No funeral establishment licensed under the
4 laws of the State of California, or the agents or employees
5 of a funeral establishment, shall enter into or solicit any
6 preneed arrangement, contract, or plan, hereinafter
7 referred to as "contract," requiring the payment to the
8 licensee of money or the delivery to the licensee of
9 securities to pay for the final disposition of human
10 remains or for funeral services or for the furnishing of
11 personal property or funeral merchandise, wherein the
12 use or delivery of those services, property or merchandise
13 is not immediately required, unless the contract requires
14 that all money paid directly or indirectly and all securities
15 delivered under that agreement or under any agreement
16 collateral thereto, shall be held in trust for the purpose for
17 which it was paid or delivered until the contract is
18 fulfilled according to its terms; provided, however, that
19 any payment made or securities deposited pursuant to
20 this article shall be released upon the death of the person
21 for whose benefit the trust was established as provided in
22 Section 7737. The income from the corpus may be used
23 to pay for a reasonable annual fee for administering the
24 trust, including a trustee fee, to be determined by the
25 ~~board~~ *program*, and to establish a reserve of not to exceed
26 10 percent of the corpus as a revocation fee in the event
27 of cancellation on the part of the beneficiary. In addition
28 to annual fees and reserves authorized by this section, a
29 trustee may, at its election, pay taxes on the earnings on
30 any trust pursuant to Section 17760.5 of the Revenue and
31 Taxation Code. In no event, however, shall taxes paid on
32 the earnings of any trust be considered part of the fees or
33 reserves authorized by this section.

34 None of the trust corpus shall be used for payment of
35 any commission nor shall any of the trust corpus be used
36 for other expenses of trust administration, or for the
37 payment of taxes on the earnings of the trust.

38 SEC. 4. *No reimbursement is required by this act*
39 *pursuant to Section 6 of Article XIII B of the California*
40 *Constitution because the only costs that may be incurred*

1 *by a local agency or school district will be incurred*
2 *because this act creates a new crime or infraction,*
3 *eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section*
5 *17556 of the Government Code, or changes the definition*
6 *of a crime within the meaning of Section 6 of Article*
7 *XIII B of the California Constitution.*

